

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Cause No. 1:13-cr-0110-SEB-DML
	)	
THOMAS WILSON,	)	- 01
	)	
Defendant.	)	

Magistrate Judge's Report and Recommendation

This matter is before the undersigned according to the Order entered by the Honorable Sarah Evans Barker, directing the duty magistrate judge to conduct a hearing on the Petition for Warrant or Summons for Offender Under Supervision ("Petition") filed on March 9, 2018, and a supplemental petition filed on March 18, 2018 and to submit proposed Findings of Facts and Recommendations for disposition under 18 U.S.C. §§ 3401(i) and 3583(e). Proceedings were held on May 18, 2018, in accordance with Rule 32.1 of the *Federal Rules of Criminal Procedure*.<sup>1</sup>

On May 18, 2018, defendant Thomas Wilson appeared in person with his appointed counsel, Dominic Martin. The government appeared by Matt Lasher, Assistant United States Attorney. The United States Probation Office ("USPO") appeared by Officer Chris Dougherty, who participated in the proceedings.

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<sup>1</sup> All proceedings were recorded by suitable sound recording equipment unless otherwise noted. See 18 U.S.C. § 3401(e).

The court conducted the following procedures in accordance with *Federal Rule of Criminal Procedure* 32.1(a)(1) and 18 U.S.C. § 3583:

1. The court advised Mr. Wilson of his right to remain silent, his right to counsel, and his right to be advised of the charges against him.
2. A copy of the Petition was provided to Mr. Wilson and his counsel, who informed the court they had reviewed the Petition and that Mr. Wilson understood the violations alleged. Mr. Wilson waived further reading of the Petition.
3. The court advised Mr. Wilson of his right to a preliminary hearing and its purpose in regard to the alleged violations of his supervised release specified in the Petition. Mr. Wilson was advised of the rights he would have at a preliminary hearing. Mr. Wilson stated that he wished to waive his right to a preliminary hearing.
4. The court advised Mr. Wilson of his right to a hearing on the Petition and of his rights in connection with a hearing. The court specifically advised him that at a hearing, he would have the right to present evidence, to cross-examine any witnesses presented by the United States, and to question witnesses against him unless the court determined that the interests of justice did not require a witness to appear.
5. Mr. Wilson, by counsel, stipulated that he committed Violation Numbers 1, 2, 3, 4, and 5 set forth in the Petition as follows:

<b><u>Violation Number</u></b>	<b><u>Nature of Noncompliance</u></b>
1	<b>“The defendant shall refrain from any unlawful use of a controlled substance.”</b>  Thomas Wilson has submitted four urine screens which have tested positive for illegal drugs. He submitted a drug screen on March 28, 2018, which

tested positive for amphetamines and marijuana. The offender admitted he ingested “Molly (MDMA) and marijuana to produce this positive screen. He provided a urine screen which tested positive for marijuana, amphetamine, methamphetamine and alprazolam, on April 13, 2018, and admitted he ingested “Molly” (MDMA) and Xanax, about 2-3 days earlier. On April 18, 2018, the offender tested positive for methamphetamine, amphetamine, and Buprenorphine (Suboxone). All of these substances were verified by Alere Laboratory. On May 3, 2018, the offender tested positive for cocaine, marijuana, amphetamines, and opiates. He admitted the night before he had ingested all of these substances, in addition to alcohol.

- 2      **“The defendant shall participate in a substance abuse treatment program at the direction of the probation officer, which may include no more than eight drug tests per month. The defendant shall abstain for the use of all intoxicants, including alcohol, while participating in a substance abuse treatment program. The defendant is responsible for paying a portion of the fees of substance abuse testing and/or treatment.”**

Thomas Wilson failed to report to substance abuse treatment groups on April 16, 2018, and on May 7, 2018. The offender failed to report for random drug testing on April 11, 2018; April 26, 2018; and May 2, 2018. The offender admitted he has consumed alcohol on several occasions over the past two months, in violation of his treatment rules.

- 3      **“The defendant shall participate in a mental health treatment program, as approved by the probation officer, and abide by the rules and regulations of that program. The probation officer, in consultation with the treatment provider, shall supervise participation in the program (provider, location, modality, duration, intensity, etc.). You shall take all mental health medications that are prescribed by your treating physician. The court authorizes the release of the presentence report and available evaluations to the treatment provider, as approved by the probation officer.”**

The offender was scheduled to attend a mental health appointment at Midtown Mental Health on April 10, 2018. He reported he went to the wrong Midtown agency location and therefore missed the appointment. The offender was rescheduled for a treatment appointment on April 24, 2018. He lied to the probation officer and stated attended this appointment, but later admitted he did not attend. The offender has a prior prescription for psychotropic medication, Fluoxetine and Carbamazepine, but has run out of both of these medications. He has been warned repeatedly by the probation officer he must be compliant with all mental health treatment appointments and medication.

- 4           **“You shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer.”**

On May 3, 2018, a search of the offender’s residence was conducted. Located in the residence were two female, both of whom appeared under the influence of illegal drugs, and both of whom admitted they had consumed drugs and alcohol with the offender during the prior evening. Stacey Smith, a felon, was arrested by Indianapolis Police Department for an open warrant for Possession of Methamphetamine. Savannah Watson is also a convicted felon with two priors for Possession of Methamphetamine. Located in the offender’s residence was a letter mailed to the offender at his home address, on March 5, 2018, from the Bureau of Prisons inmate John Lopez, register number 80375-053. Mr. Lopez is a confirmed Latin Kings Member. Located on the offender’s cell phone were texts regarding the exchange of money and drugs between the offender and third parties.

- 5           **“You shall not be a member of a gang or associate with individuals who are members.”**

Located in the offender’s residence on May 3, 2018, was a hand drawn document with Latin Kings gang images and slogans.

6.       The government moved to dismiss the supplemental petition filed on May 18, 2018 [Dkt. 43] and the same was granted.

7.       After asking Mr. Wilson questions to ensure that his decision to waive hearing and admit the specified violations was knowing and intentional, the court placed Mr. Wilson under oath and directly inquired of Mr. Wilson whether he admitted Violation Numbers 1, 2, 3, 4, and 5 of his supervised release set forth above. Mr. Wilson admitted the violations as set forth above.

8.       The parties and the USPO further stipulated:

- (a)       The highest grade of Violation (Violation 1) is a Grade B violation (U.S.S.G. § 7B1.1(a)(2)).
- (b)       Mr. Wilson’s criminal history category is IV.

- (c) The range of imprisonment applicable upon revocation of Mr. Wilson's supervised release, therefore, is 12 - 18 months' imprisonment. (*See* U.S.S.G. § 7B1.4(a).)

9. The parties jointly recommended a sentence of sixteen (16) months with no supervised release to follow. Defendant requested a recommendation of placement at USP Lee.

The Court, having heard the admissions of the defendant, the stipulations of the parties, and the arguments and position of each party and the USPO, **NOW FINDS** that the defendant, THOMAS WILSON, violated the above-specified conditions in the Petition and that his supervised release should be and therefore is **REVOKED**, and he is sentenced to the custody of the Attorney General or his designee for a period of sixteen (16) months with no supervised release to follow. The defendant is to be taken into immediate custody pending the district court's action on this Report and Recommendation. The Magistrate Judge will recommend placement at USP Lee.

Counsel for the parties and Mr. Wilson stipulated in open court waiver of the following:

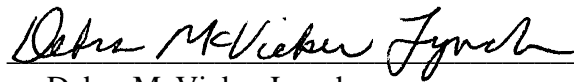
1. Notice of the filing of the Magistrate Judge's Report and Recommendation;
2. Objection to the Report and Recommendation of the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §636(b)(1)(B) and (C); and, Federal Rules of Criminal Procedure 59(b)(2).

Counsel for the parties and Mr. Wilson entered the above stipulations and waivers after being notified by the undersigned Magistrate Judge that the District Court may refuse to accept the stipulations and waivers and conduct a revocation hearing pursuant to Title 18 U.S.C. §3561 *et seq.* and Rule 32.1 of the Federal Rules of Criminal Procedure and may reconsider the Magistrate Judge's Report and Recommendation, including making a *de novo* determination of any portion of the Report or specified proposed findings or recommendation upon which she may reconsider.

WHEREFORE, the magistrate judge **RECOMMENDS** the court adopt the above recommendation revoking Mr. Wilson's supervised release, imposing a sentence of imprisonment of sixteen (16) months with no supervised release to follow. The defendant is to be taken into immediate custody pending the district court's action on this Report and Recommendation. The Magistrate Judge will recommend placement at USP Lee.

IT IS SO RECOMMENDED.

Date: 6/5/2018

A handwritten signature in cursive script, reading "Debra McVicker Lynch", written over a horizontal line.

Debra McVicker Lynch  
United States Magistrate Judge  
Southern District of Indiana

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